

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>AL BEAMER, et al.,</b>	)	<b>Civil Action No. : C-1-02-013</b>
	)	
<b>Plaintiffs,</b>	)	<b>Judge Spiegel</b>
	)	
<b>v.</b>	)	
	)	
<b>NETCO, INC., et al.,</b>	)	<b><u>DEFENDANTS' UNOPPOSED MOTION</u></b>
	)	<b><u>FOR AN EXTENSION OF THE TRIAL</u></b>
<b>Defendants.</b>	)	<b><u>DATE AND PRETRIAL DEADLINES</u></b>

Come now Defendants NETCO, Inc. and John Baumgart (hereinafter "NETCO"), by and through counsel, and for their Motion For An Extension of the Trial Date and Pretrial Deadlines states as follows:

1. On December 6, 2001, Plaintiffs filed a civil action against NETCO in Case No. A 010 8592, Al Beamer, et al. v. NETCO, INC. et al., in the Hamilton County Court of Common Pleas, Hamilton County, Ohio.

2. Based upon the allegations contained in Plaintiffs' Complaint, the case was removed pursuant to 28 U.S.C. §1441, as this Court has original jurisdiction pursuant to the diversity of citizenship provisions contained in 28 U.S.C. §1332.

3. Pursuant to this Court's Order of July 29, 2003, the trial of this matter is set to begin on April 6, 2004.

4. Pursuant to this Court's Notice of January 7, 2004, the Pre-Trial Conference is set for February 26, 2004.

5. Pursuant to this Court's rules, the parties are to submit exhibits to the Court and exchange exhibits/evidence by March 26, 2004, and file jury instructions, jury questions, verdict forms and a joint final pretrial order by April 1, 2004.

6. NETCO must request an extension of the trial date and pretrial deadlines as its trial counsel, Gregory Shoemaker, has taken a new job and thus has left the employment of his previous firm, McMahon, Berger, Hanna, Linihan, Cody & McCarthy.

7. Therefore, NETCO has had to acquire new trial counsel, William M. Lawson and William B. Jones of McMahon, Berger, Hanna, Linihan, Cody & McCarthy, both of whom will shortly file a Motion for Admission Pro Hac Vice with this Court.

8. Although Mr. Lawson and Mr. Jones will have the assistance of the associate who assisted with the preparation of NETCO's Motion for Summary Judgment, they will require time in order to familiarize themselves with this case. In addition, Mr. Lawson will be in trial in Rochester, New York in the month of March, a case which will also require substantial preparation. As for Mr. Jones, he has previously set depositions on February 26 and 27, 2004 in Denver Colorado, in the case Benger, Hoffman and Perdue v. Lillis, case number 03-C-3861 pending in the District Court of Arapahoe County, Colorado, beginning on March 1, 2004 he will be in a jury trial in a case entitled Bitterfield v. Katz Mechanical, case number 02CC-003955 pending in the St. Louis County, Missouri Circuit Court, and beginning on April 19, 2004 he will be in a jury trial in a case entitled Peterein v. H.W. Herrell Distributing, case number CV303-1371CCJI pending in the Jefferson County, Missouri Circuit Court.

9. On April 18, 2003, Plaintiffs filed a motion to extend all deadlines within the Scheduling Order governing this case, a motion which NETCO did not oppose, and the motion was granted on April 30, 2003.

10. On October 28, 2003, Plaintiffs filed a motion to extend the time for the completion of discovery and to extend the deadline for dispositive motions, a motion which NETCO did not oppose, and the motion was granted on October 31, 2003.

11. Thus, to date NETCO has not opposed any request by Plaintiffs for an extension of time.

12. Pursuant to Local Rule 7.3, counsel for NETCO has contacted counsel for Plaintiffs, Richard C. Haber, who consents to this Motion.

13. As discovery is complete and the time for filing Motions for Summary Judgment has past, granting this Motion will not affect any other deadlines established by this Court, and will provide this Court with additional time to consider NETCO's Motion for Summary Judgment.

14. Therefore, NETCO respectfully requests that this Court reset the date for trial in this matter to a date in June, 2004 at the earliest and reset the Pre-Trial Conference to an appropriate time prior to the date set for trial, with the other pre-trial deadlines to be reset pursuant to this Court's rules once a new trial date has been set.

WHEREFORE, NETCO, Inc., respectfully requests this Court to grant its Motion For An Extension of the Trial Date and Pretrial Deadlines in this matter.

Respectfully submitted,

/s/ Jacqueline Schuster Hobbs  
Donald J. Mooney, Jr. (0014202)  
Jacqueline Schuster Hobbs (0068236)  
ULMER & BERNE LLP  
600 Vine Street, Suite 2800  
Cincinnati, Ohio 45202  
(513) 762-6200  
(513) 762-6245 (Fax)  
[dmooney@ulmer.com](mailto:dmooney@ulmer.com)  
[jhobbs@ulmer.com](mailto:jhobbs@ulmer.com)

Attorneys for Defendants

OF COUNSEL:

William M. Lawson (MBE 40477)  
William B. Jones (MBE 48220)  
Susan C. Schulze (MBE 50713)  
McMAHON, BERGER, HANNA,  
LINIHAN, CODY & McCARTHY  
2730 North Ballas Road, Suite 200  
St. Louis, Missouri 63131-3039  
(314) 567-7350  
(314) 567-5698 (Fax)

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was filed electronically with the Court and served electronically upon Richard C. Haber, Esq., and Vince P. Antaki, Esq., REMINGER & REMINGER, Attorneys for Plaintiffs, 1400 Midland Building, 101 Prospect Avenue West, Cleveland, Ohio 44115-1093, this 15<sup>th</sup> day of January, 2004.

/s/ Jacqueline Schuster Hobbs